

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID NEVE,

Defendant.

No. CR10-2044-LRR

ORDER

This matter appears before the court on the defendant's motion to appoint counsel (docket no. 171). The defendant filed such motion on July 25, 2013. Appointment of counsel is based on multiple factors, including the complexity of the case, and, although the court does appoint attorneys in actions that arise under 28 U.S.C. § 2255, it is not required to appoint an attorney. *See Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996) (setting forth factors to be considered for appointment of counsel in civil case); *Abdullah v. Gunter*, 949 F.2d 1032, 1035 (8th Cir. 1991) (same); *Wiggins v. Sargent*, 753 F.2d 663, 668 (8th Cir. 1985) (stating an indigent litigant enjoys neither a statutory nor a constitutional right to have counsel appointed in a civil case); *Day v. United States*, 428 F.2d 1193, 1195 (8th Cir. 1970) ("The Sixth Amendment does not extend to persons seeking post conviction relief." (citing *Baker v. United States*, 334 F.2d 444, 447 (8th Cir. 1964))). In light of the law and the record, the court concludes that appointment of counsel is not warranted. The defendant has not yet filed an action under 28 U.S.C. § 2255, and the court does not believe that it is appropriate to appoint counsel to research possible claims that the defendant might be able to assert in an action under 28 U.S.C. §

2255. Accordingly, the defendant's motion for appointment of counsel (docket no. 171) is denied. If the defendant desires to pursue an action under 28 U.S.C. § 2255, he should complete and submit to the court the form that is typically used by those who are seeking relief under 28 U.S.C. § 2255. The clerk's office is directed to send the defendant the form that is typically used by those who are seeking relief under 28 U.S.C. § 2255.

IT IS SO ORDERED.

DATED this 26th day of July, 2013.



JON STUART SCOLES
Chief Magistrate Judge
UNITED STATES DISTRICT COURT